THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.8203 of 2006

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DATED:21-04-2006

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BETWEEN

Syed Sirajuddin.

…PETITIONER

AND

The Assistant city Planner, Circle No.5, Municipal Corporation of Hyderabad, Khairatabad, Hyderabad and another.

…RESPONDENTS

THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.8203 of 2006

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of respondent No.1 and his agents in proposing to demolish the petitioner's premises bearing Nos.

6-3-239 and 6-3-239/A, situated at Sarada Devi Street, Premnagar, Hyderabad, for the purpose of widening the Municipal Park, situated adjacent to the petitioner's house without following due process of law, as illegal, arbitrary and also in contravention of Sections 146 and 147 of the Hyderabad Municipal Corporation Act, 1955 (for short 'the Act').

The case of the petitioner is that he is the absolute owner and possessor of the above said premises, situated at Sarada Devi Street, Premnagar, Hyderabad, by virtue of registered sale deeds dated 06-12-1982. It is stated that on 18-04-2006 the respondent No.1 and his staff visited the premises of the petitioner and took measurement of his house and threatened to demolish the same for the purpose of widening of the municipal park situated adjacent to his house.

The main grievance of the petitioner is that the respondent Corporation has not issued any notice before deciding to demolish his premises and they are trying to demolish the same for the purpose of widening the municipal park without acquiring the property as contemplated under Chapter V of the Hyderabad Municipal Corporation Act or under the Land Acquisition Act, without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land acquisition Act, is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Act.

No doubt widening/laying of the municipal park is in the public interest but while laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same by following due process of law. This Court disposed of number of writ petitions directing the respondent not to demolish the houses of the private citizens without following due process of law or private negotiations.

Having regard to the facts and circumstances of the case,
the respondents are directed not to demolish or take away any portion of the property of the petitioner and not to dispossess him without following due process of law either under Section 146 or under 147 of the Act by private negotiations or initiating the proceedings under the Land Acquisition Act, 1894.

The writ petition is accordingly disposed of. No costs.

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V. ESWARAIAH, J

Dated: 21-04-2006

Note: Issue CC by two days.

(Bo)

sj